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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/469,494 01/04/00 DAVIS

L 076565-0115

EXAMINER

QM32/0613

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ART UNIT

PAPER NUMBER

3732


DATE MAILED:

06/13/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No. 09/469,494	Applicant(s) Davis et al	
Examiner Paul Hirsch	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 27, 2001
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-95 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 39-42 and 46-70 is/are allowed.
- 6) ☒ Claim(s) 43-45, 71-93, and 95 is/are rejected.
- 7) ☒ Claim(s) 94 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 15 20) ☐ Other:

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DETAILED ACTION

Response to Amendment

1. Objection is made to the amendment filed April 27, 2001 as not being in compliance with 37 CFR 1.173(b)(g). While the amendment has been considered any response to this action must place the newly added claims (claims 39-95) in proper form for further consideration.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 85-91 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

A. Claim 85, lines 5-9 lack clear support within the specification as to what specifically the three "sealing surfaces" are, and accordingly constitutes New Matter.

✓ B. Claim 86 lacks clear support as what constitutes the "planar" surface that seals.

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4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 43-45, 71-84 and 95 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. Claim 95 depends from itself.

✓ B. Claim 43 appears as double recitation of the housing recited by claim 39, thereby confusing the subjectmatter of claim 45.

C. Claim 71, line 4, "position the seal" is awkward.

Claim Rejections - 35 USC § 102

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 85-86, 89-90 and 92-93 are rejected under 35 U.S.C. 102(a,e) as being anticipated by Sheffler et al. Sheffler et al teaches (figs. 22-25 and 19-21 taken separately and/or overall) base part and closure part that cooperatively closes and seals forming an hermetic seal by the cooperation of a rim and channel.

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Claim Rejections - 35 USC § 103

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claims 87 and 91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheffler et al. To form one of the rims of the upper and/or lower case part of Sheffler et al with a bulge would be obvious from figs. 1-16 for reduction of wear/stress at the seal points.

10. Claim 95 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sheffler et al as applied to claim 92 above, and further in view of Seidler et al. To the degree that the claim is definite to adapt Sheffler et al to include an insert for refill would be obvious from Seidler et al.

Response to Arguments

11. Applicant's arguments filed April 27, 2001 have been fully considered but they are not persuasive. Accordingly, the above rejection of claims is believed proper as outlined above.

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Allowable Subject Matter


12. Claims 39-42, 46-70 are allowed. Claims 71-84 would be allowable if "whereby" is inserted between "position" and "seal" as an apparent omission relative to the previously submitted claim.

13. Claims 43-45 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

14. Claim 94 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Primary Examiner Paul Hirsch whose telephone number is (703) 308-2697.

16. Note enclosed Form PTO/SB/51S which is required to be submitted once prosecution is closed.


Paul J. Hirsch
Primary Examiner

pjh

June 1, 2001